



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

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JEREMIAH W. (JAY) NIXON
ATTORNEY GENERAL

P.O. Box 899
(573) 751-3321

September 2, 2008

Dear Treasurer:

Missourians seeking to maintain the privacy of their homes and family time have registered more than 2.7 million phone lines with our No Call list. In doing so, they have sent a strong message to telemarketers that, whatever the value of their goods or services, these merchants must find a way to present their products other than through the unwanted intrusion of an unsolicited telephone call. For the most part, telemarketers have learned to respect Missourians' wishes in this area and, when they do not, our office's enforcement unit has held them accountable by securing injunctions and significant fines and penalties.

Each year, we have asked the Missouri General Assembly to expand the reach of the No Call law by narrowing current exceptions, and thus further decrease unwelcome interruptions. Included in these efforts have been proposals to include automated, pre-recorded political messages within Missouri's No Call law as other states have done. To date, however, these requests have gone unheeded in Missouri and thus political "robo-calls" are not currently prohibited by Missouri's No Call law.

But this is not to say that such calls are completely unregulated or that Missourians have no recourse against those who do not abide by the applicable regulations. Under the federal Telephone Consumer Protection Act (TCPA), any call delivering a pre-recorded or artificial voice message MUST include the following:

1. The message must state – clearly and at the beginning of the call – the identity of the party initiating the call.
2. The message must include the telephone number or address of the party initiating the call so that the Missourian receiving the call will have a fair opportunity to demand not to receive any further calls.

See 47 U.S.C § 227(d)(3). See also 47 C.F.R. § 64.1200(b). Violations of these requirements already have resulted in federal actions in other states.

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In the weeks preceding the August 2008 primary elections, our office received hundreds of consumer complaints regarding political "robo-calls," including complaints that the messages failed to identify the entities initiating the calls or provide any contact information. Accordingly, I am providing this notice as to what is required to ensure compliance as we move toward the General Election in November. I am asking any Missouri consumer who receives a "robo-call" that does not conform to the foregoing "identification and callback" rules to contact our No Call enforcement unit. With these complaints, and using all investigative tools at our disposal, we will identify the callers and those for whom the calls are made. We will pursue violators to the full extent allowed under the TCPA, seeking both injunctions and up to \$1,500 in damages per call.

Accordingly, if your organization decides to employ these "robo-calls" (either by making them directly or having others make them for you), I ask that you take all actions necessary to ensure that the calls comply with all TCPA rules. I further request, in advance, that you render all available assistance to our office as we investigate Missourians' complaints in this area so we can identify and stop offenders as quickly as possible. If you have any questions regarding these issues, please contact Rex M. Burlison, Chief Counsel for the Eastern Region, at 314-340-7652.

Sincerely,

Jeremiah W. (Jay) Nixon
Attorney General